

Nolensville Planning Commission  
May 8, 2007, 7:00 p.m.  
Nolensville Elementary School

Commissioners in attendance were Rick Owens, Willis Wells, Mayor Beth Lothers, Frank Wilson, Bob Haines, Andy Grosson, Jimmy Alexander and Matt Happel. Commissioner Debbie Riddle was absent. Staff members present were Bob Notestine, Henry Laird, Michael Blanks and Cindy Lancaster.

The meeting was called to order at 7 p. m. by Chair Rick Owens.

**Agenda Item I - Pledge of Allegiance**

The pledge of allegiance was led by Rick Owens.

Mr. Owens announced that he would open each topic for discussion from the floor prior opening it to the Commission for discussion.

**Agenda Item II - Approval of Minutes**

Rick Owens asked for any comments on the minutes. Bob Haines noted that under attendance, his name should be removed, he was not in attendance.

Rick Owens moved to approve the minutes from April 10, 2007 as amended. Mayor Lothers seconded the motion. The motion passed unanimously.

**Agenda Item III - Announcements**

Mayor Lothers noted that the Board of Mayor and Aldermen amended the resolution to participate in the National Flood Insurance Program. The Board of Mayor and Aldermen had passed a resolution that had a reference to the incorrect Federal law. Mayor Lothers stated that she did meet with the State Planning Agency and they gave her a revision. The next step is to submit the application to FEMA. The State Planning Agency has agreed to have several workshops for citizens to explain the National Flood Insurance Program. The State Planning Agency has also agreed to hold a workshop for the Planning Commission on FEMA to explain the remapping of the flood plain that has occurred.

Mayor Lothers noted that the Sign Ordinance brought up by Mr. Larry Gardner at the last meeting had been tabled by the Planning Commission and had never been sent to the Board of Mayor and Aldermen. She stated that at this point it is off the table unless someone can craft a solution and bring that solution forward.

Mr. Willis Wells attended the Williamson County Planning Commission. Mr. Wells stated that to attend was very enlightening in terms of how to expedite the processing of a large volume of material. Mr. Wells stated that there was not anything that pertained to the Town covered at the meeting.

**Agenda Item IV - Citizen Comments**

There were no citizen comments.

**Agenda Item V – New Business**

## ***1. Subdivision Reviews***

### ***a. Bent Creek Final P.U.D. Plan, Phase 6***

Henry Laird stated that the final PUD plan for Phase 6 of Bent Creek proposes sixty-two new lots. He noted that there were forty-two lots at sixty-five foot widths and twenty lots at sixty foot widths. The corner setbacks were increased to ten feet from the originally approved five feet. Mr. Laird stated that staff concerns were primarily with obtaining more detailed information on open space, lot sizes, housing elevations, and drainage. Mr. Laird stated that Cates-Kottas Development has responded satisfactorily to our comments and Tom Allen has given his approval on the drainage calculations.

Rick Owens moved to bring the topic before the Commission. Bob Haines seconded the motion. The topic was opened for discussion. Mr. McNeely with Cates Kottas was in attendance and stated that they are excited about proceeding with another phase at Bent Creek. Mayor Lothers inquired about whether or not Phase 6 of the development was going to incorporate side or front loaded garages. Mr. McNeely stated that he was not sure but believed that they would have front loaded garages.

Bob Haines asked for an update on the walking trails within the development. Mr. McNeely stated that he received a phone call from a Planning Commission member and was asked about the trails. He referred to a map which showed how the trails would be laid out. Rick Owens inquired about Cates-Kottas' willingness to tie into future adjacent developments. Mr. McNeely stated that Bent Creek would consider extending trails to their property line to connect with an adjacent property but could not commit to anything off site.

Mr. McNeely stated that Cates-Kottas is trying to use its flood plain areas for greenways and trails. Frank Wilson observed that on the left on the map there was a lot of open area that he recalled was to have a walking trail located on it. Mr. McNeely stated that in Phase 4 they are going to work the trail back to that area. Jimmy Alexander asked if the Reserve at Bent Creek would have trails that would connect to Bent Creek. Mr. McNeely stated that it would.

Nicky Norman, a Bent Creek resident, asked if there would be any pocket parks on Jobe Trail Court. Mr. McNeely stated that there was a pocket park approximately four houses down from the area inquired about. Matt Happel asked what percentage of trees would remain. Mr. McNeely stated that none would be removed.

Frank Wilson moved to approve the plan. Willis Wells seconded the motion. The motion passed unanimously.

## **Agenda Item VI - Zoning Amendment Proposals**

### ***1. Proposed amendment to zoning map to reduce the area coverage of the Historic District Overlay (removes the overlay from the Village District south of the New Clovercroft Road and Nolensville Road intersection.***

Henry Laird showed the proposed reduction of the Historic District Overlay on a map. He noted that the proposed amendment to the zoning map would reduce the area

coverage of the Historic district overlay. The Historic District Overlay would be removed from the Village District south of the New Clovercroft Road and Nolensville Road intersection. In the Northern section of the Village District the Historic District Overlay would be extended to include the Cemetery. Mr. Laird observed that most of the older buildings are in the area located from the bridge area to the cemetery. Mr. Laird stated that the Historic Zoning Commission has recommended this change along with Mayor Lothers.

Mr. Laird stated that there would also be some changes to the text of the Zoning Ordinance that describe the change of the Historic District Overlay as well as some administrative clean up of the text.

Frank Wilson stated that because his property is included in the area being discussed he would recuse himself from this vote. Willis Wells stated that he appreciated the precision of the description of the Historic District Overlay. He noted that there had always been a lack of clarity in the description.

Keith McCord, part owner of 7263 Nolensville Road asked if the Historic District Overlay and the Village District would be the same. Rick Owens stated that the Historic District Overlay would no longer encompass the entire Village area. Henry Laird confirmed that the overlay will exist from the Cemetery northward. The only change to the northern section of the Historic District Overlay is the addition of the Cemetery to the Historic District Overlay. The Village area to the south will no longer have an Historic District Overlay but will remain part of the underlying Village area. Mayor Lothers reiterated that while the Historic District Overlay would be reduced none of the underlying zoning would change.

Betty Friedlander of 240 Norfolk Lane claimed that the proposed changes to clean up the Zoning Ordinance were voted on by the Board previously, but were not corrected. Mrs. Friedlander insisted that this was not the first time that the Commission had approved these changes. She restated that they had been voted on and approved before and had somehow slipped through the cracks.

Wanda Barker the Historic Zoning Commission Chairperson stated that the Historic Zoning Commission had voted on and approved the change to the Historic District Overlay. She noted that the Historic Zoning Commission felt that this change would clean up the district and is the natural boundary and natural cutoff for the historic area of the Town. Ms. Barker submitted a letter stating that the Historic Zoning Commission approves of the change.

Mayor Lothers moved to approve the amendment. Jimmy Alexander seconded the motion. There was no further discussion. The motion passed with a majority Rick Owens, Willis Wells, Mayor Beth Lothers, Bob Haines, Andy Grosson, Jimmy Alexander and Matt Happel voting for the amendment. Commissioner Frank Wilson did not vote on the matter as he had recused himself from the topic.

***2. Proposed amendment to zoning ordinance revising the definition of “structure” and establishing permitted obstructions allowed to be placed within required building setbacks.***

Henry Laird noted that this recommendation had come from staff Codes Enforcement Officer Don Swartz and Mr. Michael Blanks, Building Inspector. Mr. Laird stated that

there had been confusion in regards to what is permitted outside the building envelope. Mr. Blanks and Mr. Swartz reviewed Metro's and various other jurisdictions' ordinances and narrowed it down to fit Nolensville. He stated that the proposed amendment will allow people to build decks, fountains, fences and other items within some limits. The main concern was with allowing uncovered decks to be constructed outside the building envelope but not closer than 10 feet from the property line and not higher than the first floor of the structure. There have been numerous variance requests in regards to this issue. Mr. Laird said that the definition of structure would be amended. Mr. Laird noted that the Town's current definition of structure included gazebos, arbors, fences and signs. He further noted that the building envelope definitions say that those structures can be built. He stated that this has created some confusion and we are trying to simplify the definition with the proposed amendment. Staff recommended removing the items listed as structures and including a list of permitted setback obstructions. Bob Notestine noted that the Town should follow the FCC guidelines where satellite dishes are concerned.

Rick Owens clarified that the purpose of the proposed amendment was to simplify the meaning of the word structure and to delineate the permitted setback obstructions. Rick Owens moved to open the topic to the floor.

Mr. Larry Gardner of 2536 York Road asked Mr. Laird to restate the size of a deck that could be built. Mr. Laird read item # 17 which describes an uncovered deck that is located at least ten feet from the rear property line, does not encroach on required side setbacks and has a maximum deck elevation no greater than the average finished first floor elevation of the principal building as established by the front entrance. Mr. Gardner stated that he sat on the Board of Zoning Appeals and there were several requests that were coming before the Board for variances to allow a deck. Mr. Gardner noted that large homes are being built on small lots and then the owners are coming before the Board of Zoning Appeals to apply for variances. Some requests were granted to encroach partially into the setback on the basis of the fact that the builder did not catch this until it was completed. They finished the house and told the homeowner that they would have to appear before the Board of Zoning Appeals. Mr. Gardner stated that in this instance the variance was approved. There was one instance where the rear of the structure was fifteen feet off the rear property line. In one case the homeowner did not get a building permit and came before the Board of Zoning Appeals. Mr. Gardner noted that the Board has hashed this over and ultimately wanted to keep the ordinance the way that it is. He stated that the Town's PUDs have 15 foot setbacks in order to maintain an acceptable appearance. Mr. Gardner stated that he did not want Nolensville to look like Antioch and that he would appreciate it if the Commission would really consider this before approving.

Michael Blanks the Town of Nolensville Building Inspector agreed that most of what Mr. Gardner was saying was correct. He noted that if you have a home sitting on the rear setback this amendment will allow for handicap ramps and mailboxes and will clean up a lot of things for the Codes Department. It will give these people an opportunity to have decks and other traditional items found in yards. Staff's recommendation is to approve.

Nicky Norman of 4544 Sawmill Place stated that regarding decks her homeowners association does not allow pools to be built off of decks. She stated that her family does enjoy their deck.

Rick Owens moved to approve this amendment as cited by Mr. Laird with the alteration of changing the numbering of #20 to #21 and to amend the first #20 satellite dish not to exceed the FCC standards. Mayor Lothers seconded the motion. The topic was opened for discussion.

Jimmy Alexander stated that he could see this working in Bent Creek and on the smaller lots. He asked if this would apply to larger lots also. Mr. Blanks stated that they could do that currently.

Matt Happel read item #16 and stated that he would like to see item a) 2 ½ changed to 3. Visually and design wise, in section c) he thought that it should be lowered to six and b) should be lowered to three. He stated that he did not think anything in front of the house should be higher than 3 feet. Mr. Laird stated that this verbiage came from metro. Mr. Blanks stated that he agreed that three feet would be sufficient. Mr. Laird inquired if horse fences around farms had been considered. He pointed out that this ordinance applies to all areas of the Town. Mr. Laird pointed out that there are a lot of rural areas that this would affect. He noted that it becomes a stickier issue when it comes to the different areas that this will apply to. Mr. Laird stated that we may want to review this further.

Frank Wilson stated that from what he read, Metro was used as a guideline on this. He stated that this is not Metro, Brentwood or Franklin and that we can set our own rules, which we have done. He further stated that one concern that he had was in regard to decks. He stated that most of this would work in a standard subdivision, but when you get to a PUD, it could become a place that a lot of people would not want to live in. He referred to item #3 in regards to chimneys, air conditioning units and sculpture and statue art. He asked if the Town had considered that a resident might want to have a statue of a naked person in their front yard. Mr. Wilson also referred to item #16 dealing with chain link fences. He stated that in his opinion they should be outlawed everywhere because after several years they begin to look awful.

Mayor Lothers noted that she is in agreement with the fence issue. She stated that she had conferred with MTAS and was told that when you have so many of the same requests coming before the Board of Zoning Appeals then your ordinance needs to be reviewed. She stated that this was a practical solution. Mayor Lothers asked for clarification on what is currently in the ordinance.

Mr. Blanks stated that we currently have nothing that addresses fences. He stated that they do not require a permit and that we do not review now. He noted that this ordinance will clear up some of these issues. He further discussed the definition of structure and pointed out that a deck, gazebo, fence or patio is not a permanent structure. The intent of the code is life safety.

Mayor Lothers inquired about how homeowner associations' restrictions impact this issue. Mr. Blanks stated that we do not apply them to codes and we do not uphold their rules. We do encourage citizens to check with their homeowners association. Frank Wilson read a section from the Subdivision Regulations in regard to fences. Mr. Laird stated that the selection was talking about the boundaries of the development itself.

Willis Wells noted that there were several things that we would readily accept and some we would not. He stated that we haven't clarified everything and we do not even know if we are talking about a lot or an entire subdivision. Mr. Laird stated that we are trying to cover every area of Town. He noted that is why it makes the statement to refer

to your "district" for clarification. Mr. Wells stated that he just didn't think this was clear. Mr. Blanks said that in Bent Creek we already have many lots where air conditioning units and pads are not within the building envelope. He stated that this is trying to clarify and clean a lot of it up. Mr. Blanks noted that most of these structures are already being built. He stated that the proposed amendment will give Codes the ability to oversee it. Mr. Wells asked if the Planning Commission could have a workshop to discuss this further.

Bob Haines said that his biggest complaint is that the builder is selling square feet and not homes. He stated that what he has done is try to get an ordinance which would reduce the size structure a certain percentage relative to the lot size. He stated that he wanted to remove item #3 and #6, so it would be upon the builder to construct within the boundary that they know they should be working in.

Michael Blanks stated that he agreed with Mr. Wells that the discussion that was taking place in regard to this zoning amendment would be better suited to a workshop setting. Mr. Blanks stated as a result of having to enforce these ordinances I have to totally disagree with stoops, handicap ramps or air conditioning pads not being allowed outside the building envelope.

Bob Notestine stated that he worked with Mr. Laird on the proposed amendment. He reiterated that the proposed amendment is simply an attempt to define the word structure. He stated that the Planning Commission should not get involved in design issues and birdbaths when those are really the function of the homeowners association's restrictive covenants. He stated that we can always get the developer to add any concerns that the Town may have to the associations' covenants. Restrictive covenants and our ordinances are two different things. Restrictive covenants are a contract, ordinances are laws. Mr. Notestine stated that he agreed with Mr. Laird and Mr. Blanks in that we need to define what we mean by structure. He stated that if it takes a workshop to figure out what our definition structure is then we should have one. We should leave aesthetics to the home owners associations.

Mr. Laird suggested that if there are specific areas that we can all agree need to be reviewed let staff review those areas and bring it back to the Commission. There has already been action taken on the air conditioning unit issue. Mr. Laird stated that it is impossible to create a perfect ordinance because it seems that every time we write a rule the next day something comes along to reveal a flaw. Mr. Laird requested that staff be allowed to review this and come back. Matt Happel suggested submitting suggestions via email. Rick stated he felt that was a good idea. Jimmy Alexander agreed.

Mr. McNeely stated that in Bennington and Bent Creek there are pretty stringent restrictions on homeowners in regard to what they can and can not do in their back yard. We probably get as many complaints as the town does. One thing that we are concerned about is encroaching into ditches and drainage easements.

Rick Owens stated that a lot of issues had been raised and that there are valid points that need to be reviewed.

Larry Gardner stated that through Bob's leadership, when builders get their packets the guidelines are given at that time. The last few months that he was on the Board of Zoning Appeals there were few applications for variances to allow decks. Mayor Lothers stated that she had five people contact her in regard to decks. They are prepared to go before the Board of Zoning Appeals because that is their only recourse

unless this Commission looks at it comparative to surrounding communities and makes a determination about whether we want to wear out our Board of Zoning Appeals or not.

Rick Owens withdrew his motion, Mayor Lothers withdrew her second.

Rick Owens made a motion to defer, Mayor Lothers seconded, this passed unanimously.

### **Old Business**

#### ***1. Set performance bond amount for Bent Creek Phase 5, Sec. 2***

Henry Laird stated that Don Swartz, the Town's acting engineer requested that the performance bond be reduced to \$177,013.50. The final plat was approved a couple of months ago on the condition that our engineer approved the bond amount. Mr. McNeely noted that at the March meeting there was never an amount agreed upon. He stated that they had wanted to get the binder down on the road in order to get the letter of credit amount as low as possible. He stated that they are now at a point where they would like to get this going and get the final plat recorded. Frank Wilson moved to approve. Matt Happel seconded the motion. The motion passed unanimously.

### **Other Business**

#### ***1. Monthly Bond Report***

Frank Wilson inquired about the two Cates-Kottas bonds that are due which are shown on the bond report. Henry Laird responded that one bond has been taken care of and Mr. McNeely has been notified that there is one other bond that needs to be taken care of. Mr. McNeely stated that a new letter of credit would be issued to the Town and an extension fee would be submitted to the Town tomorrow. Bob Notestine requested clarification about whether or not the letter of credit due to expire on May 17 had been taken care of. Mr. Notestine explained that in order to call a letter of credit the process needs to be started within a week of expiration. Mr. McNeely stated that the date is incorrect and that should be a December date. He said that a representative from the issuing bank had been in contact with Gina and the matter was resolved. Mr. Notestine asked that we check with staff to confirm the expiration date.

Rick Owens moved to approve the bond report. Bob Haines seconded and this was approved unanimously.

Mr. Laird noted that there is one item that was emailed Commission members. It addresses the area and lot requirements within the Village district. At the April meeting the Planning Commission recommended an amendment to the Village Area and Lot Standards with a recommendation for additional terminology. The Planning Commission attempted to keep the process in motion by forwarding the recommendation on to the Board of Mayor and Aldermen. The Board of Mayor and Aldermen amended the maximum first floor area residential within the Historic District Overlay to 4,000 from 8,000 and has sent the recommendation back to the Planning Commission for consideration. The 4,000 square foot figure was from measurements taken of buildings in the area as well as County tax assessor records.

Keith McCord stated that the proposed amendment had come as a bit of a surprise to him. He asked how long the previous 8,000 square foot standard had been on the books. Bob Notestine responded that it had probably been on the books since the zone was created. Mr. McCord stated that the proposed amendment would have a great impact on the development of his property. He further noted that the timing of the potential amendment was very critical to he and his family.

Matt Happel pointed out that there had been a workshop on the subject and that the Planning Commission discussed this at length at the last meeting. Mr. Happel also pointed out that the Design Review Manual states in Section C and E that a structure must be compatible with adjacent structures. He stated that if Mr. McCord were planning to build an 8,000 building beside a 2,000 building it probably would not be approved on that basis alone.

Mr. McCanless of 7271 Nolensville Road asked if they would be allowed to build 8,000 square feet of first floor in multiple buildings rather than one structure. Matt Happel responded that the 4,000 square feet of first floor is per building not per lot. Mr. McCanless stated that the maximum impervious surface of 40% was also extremely unfair and penalizing. Mr. McCanless stated that the Town needs to take every structure in the Historic District and measure the impervious surface ratio. He stated that everyone should be treated the same. Mr. McCanless pointed out that there are also three zonings on the property. Mr. McCanless stated that he still thought that there needed to be more study done on the floor area ratio and maximum impervious ratio.

Mr. Laird stated that staff members had looked at property maps and buildings for the area as a guide for setting the ratios and sizes to be allowed. Mr. Allen said that floor area ratio varies from one place to another depending on the area. Mr. Laird stated that they calculated a floor area ratio so that it would be on balance with the surrounding area. He further noted that as far as water quality and runoff are concerned 0.4 is a high. He stated that if there was a problem it could be adjusted. Jimmy Alexander stated that last month when the impervious surface ratio was discussed he indicated at that time that he thought that it was the lowest he had seen in a commercial area.

Tim Turner with T2 Engineering stated that the lowest impervious surface ratio he had ever seen was 60%. He stated that his concern was that if 15% of the floor area ratio is taken up for floor area then that would only leave 25% for parking lots and drives. Mr. Turner stated that he thought that he was reading it backwards when he initially read it. Being able to make it work with drives and parking and still be within the 40% will be difficult.

Bob Haines asked if he would be able to work within the set limits if the parking lot was made of a pervious surface. Mr. Turner stated that it would help on water quality. There was general discussion regarding water quality.

Mayor Lothers asked about where the 0.4 came from and if Mr. Allen thought that it should be .40. Mr. Laird stated that he did not say it should be any specific number. He stated that they had tried not to allow too much impervious surface because of the flood plain and the appearance of the surrounding area. He stated that if 60% is better he thought that they could make that work.

Rick Owens noted that the 4,000 square foot first floor area of the building sounds reasonable to me and keeping with the character of the Village. Mayor Lothers agreed that if the 4,000 is not a manageable number she would like to review this more. Jimmy



Alexander stated he could go along with the 4,000, but felt that the impervious surface ratio should be looked at a little more. Willis Wells asked if the 4,000 square foot requirement would be restrictive. Mayor Lothers noted that they can have more than one structure.

Mr. McCanless stated that all of the structures in the zone need to be measured. Mayor Lothers noted that she thought that our Building Official had measured the buildings in the area.

Rick Owens moved to approve the 4,000 square feet Maximum First Floor Area for Non-Residential in the Historic District Overlay and the addition of the wording Non-Residential and Mixed Use Floor Area Ratio of 0.35 for. Matt seconded the motion. The topic was opened for discussion

Mayor Lothers stated that what she heard was the mixing of square footage and ratios. Henry Laird stated that it is two different things. Beth asked if staff was comfortable with 4,000. Mr. Laird stated that staff was comfortable.

The vote was taken and was approved unanimously.

Rick Owens then opened the discussion about Impervious Surface Ratio. Mayor Lothers stated that she felt that the Board of Mayor and Aldermen would want a Planning Commission recommendation. She suggested conferring with Mr. Allen. Bob Notestine stated that it could be deferred by this Commission and be brought back after discussion. Mayor Lothers stated that she would like to present a completed chart to the Board of Mayor and Aldermen.

Mayor Lothers moved to defer the Maximum Impervious Surface Ratio determination. Matt Happel seconded. The motion passed unanimously.

### **Adjournment**

The meeting adjourned at 9:18 P. M.

Respectfully submitted,

\_\_\_\_\_  
Gina Lawrence  
Recording Secretary

\_\_\_\_\_  
Date

Approved

\_\_\_\_\_  
Matt Happel  
Planning Commission Secretary

\_\_\_\_\_  
Date

Reviewed \_\_\_\_\_